

2  
B2  
cont.  
having enhanced resistance to a plant disease-causing agent selected from the group consisting of tobamoviruses, elicitin-producing fungi, parasiticein-producing fungi, cryptogein-producing fungi, harpin-producing bacteria, tobacco mosaic virus and Phytophthora fungi; wherein said transgenic plant is stably transformed with a nucleic acid construct comprising an inducible promoter operably linked to a nucleic acid molecule selected from the group consisting of a sequence set forth in SEQ ID NO:1 or a sequence having 90% sequence identity therewith encoding a functional kinase enzyme, said nucleic acid molecule being expressible in a plant cell.

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7. (Amended) The transgenic plant of claim 1, wherein said transgenic plant has enhanced resistance to the tobacco mosaic virus.

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10. (Twice Amended) A method of making a transgenic plant expressing the N gene, having enhanced disease resistance comprising:

B4  
a) transforming regenerable cells of a plant with a recombinant DNA construct comprising a figwort mosaic virus 35S promoter operably linked to a nucleic acid molecule selected from the group consisting of a sequence set forth in SEQ ID NO:1 or a sequence having 90% sequence identity therewith encoding a functional kinase enzyme, expressible in a plant; and

b) regenerating a transgenic plant from said transformed regenerable cells, said transgenic plant having enhanced disease resistance to a plant disease-causing agent selected from the group consisting of, tobamoviruses, elicitin-producing fungi, parasiticein-producing fungi, cryptogein-producing fungi, harpin-producing bacteria, tobacco mosaic virus and Phytophthora fungi.

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12. Canceled.

B<sub>5</sub> 13. (Amended) The method of claim 10, wherein the nucleic acid molecule is from tobacco.

18. (New) A method of making a transgenic plant expressing the N gene, having enhanced disease resistance comprising:

B<sub>6</sub> a) transforming regenerable cells of a plant with a recombinant DNA construct comprising an inducible promoter operably linked to a nucleic acid molecule selected from the group consisting of a sequence set forth in SEQ ID NO:1 or a sequence having 90% sequence identity therewith encoding a functional kinase enzyme, expressible in a plant; and

b) regenerating a transgenic plant from said transformed regenerable cells, said transgenic plant having enhanced disease resistance to a plant disease-causing agent selected from the group consisting of, tobamoviruses, elicitor-producing fungi, parasiticein-producing fungi, cryptogeiin-producing fungi, harpin-producing bacteria, tobacco mosaic virus and Phytophthora fungi.

19. (New) The method of claim 18, wherein the inducible promoter is a tetracycline repressor/operator controlled promoter.

#### REMARKS

The October 9, 2002 Official Action and references cited therein have been carefully reviewed. In light of the amendments presented herewith and the following remarks, favorable reconsideration and allowance of the application are respectfully requested.

At the outset, it is noted that the previous rejections of claims 1-17 under 35 U.S.C. §112, first paragraph, 102(b), and 103(a) have been withdrawn in view of previous claim